

City Council Introduction: **Monday**, February 12, 2001  
Public Hearing: **Monday**, February 26, 2001, at **5:30 p.m.**

Bill No. 01-26

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 3288**, a text amendment to Title 27 of the Lincoln Municipal Code, requested by Brian Carstens and Associates on behalf of Hampton Enterprises, to amend section 27.63.590 "**Temporary Storage of Construction Equipment and Materials**" to allow the permit to be granted on lots less than 10 acres in size and to remove the time limits.

**STAFF RECOMMENDATION:** Approval, with revisions

**ASSOCIATED REQUESTS:** Special Permit No. 1313A (01R-41); Change of Zone No. 3272 (01-25); Special Permit No. 1876 (01R-42); and Preliminary Plat No. 00021, Hartland Homes East 1<sup>st</sup> Addition (01R-43).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission

Public Hearing: 11/01/00

Administrative Action: 11/01/00

**RECOMMENDATION:** Approval, with revisions recommended by staff (7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent).

### **FINDINGS OF FACT:**

1. This text amendment is associated with Special Permit No. 1313A, Change of Zone No. 3272, Special Permit No. 1876 and Preliminary Plat No. 00021.
2. The Planning staff recommendation of **approval with revised language** is based upon the "Analysis" as set forth on p.2-3, concluding that the intent of the special permit provision is for the temporary storage of construction materials and equipment until the surrounding area develops. Once an area fully develops, the temporary construction storage yard would be removed and converted to a residential use. In regards to the proposed three amendments:
  - A. **Lot Size Change:** The amendment to the lot size is appropriate. This will allow a smaller lot to be used for the use. Currently, the special permit limits the storage area to two acres, which could leave 8 acres or more unused.
  - B. **Time Period Elimination:** The elimination of maximum 10 year period is appropriate with the understanding that the City Council will establish an appropriate limitation on the temporary use. No special permit should be granted without a specific date to discontinue the use.
  - C. **Administrative Amendment Elimination:** The proposal to eliminate the administrative amendment should not be approved. However, extending the time period for administrative amendments from one to five years will prevent the need for repeated amendments when it is clear that the use should be extended.
3. The applicant's testimony is found on p.5.
4. There was no testimony in opposition.
5. The Planning Commission agreed with the staff recommendation to approve revised language. The revised language is found on p.3-4.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** February 5, 2001

**REVIEWED BY:** \_\_\_\_\_

**DATE:** February 5, 2001

**REFERENCE NUMBER:** FS\CC\FSCZ3288

## **LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.#:** Change of Zone #3288

**Date:** October 23, 2000

**PROPOSAL:** Request to amend the existing text for Section 27.63.590 "Temporary Storage of Construction Equipment and Materials" to allow the permit to be granted on lots less than 10 acres and remove the time limit.

### **GENERAL INFORMATION:**

**APPLICANT:** Hampton Enterprises  
1660 S. 70<sup>th</sup> Street, Suite 203  
Lincoln, NE 68506

**CONTACT:** Brian Carstens, Carstens Associates  
2935 Pine Lake Road, Suite H  
Lincoln, NE 68516  
(402) 434- 2424

### **HISTORY:**

On **March 27, 1989**, City Council approved a change of the zone for a text amendment to create a special permit for temporary storage of construction equipment. At the same meeting the City Council approved Special Permit #1313 for the temporary storage site on S. 84<sup>th</sup> Street, 1/4 mile north of Old Cheney Road. This remains the only special permit for this use to date.

### **ANALYSIS:**

6. The applicant proposes to amend Section 27.63.590 to allow the City Council to extend the time period of approval for this type of special permit and to allow the special permit on lots smaller than 10 acres in size. The proposed amendment to Section 27.63.590 "Permitted Special Use: Temporary Storage of Construction Equipment and Materials" is as follows:

Temporary storage of construction equipment and materials may be allowed by special permit in the AG zoning district under the following conditions:

- (a) The site shall be located in or within one mile of the future urban area as designated in the Comprehensive Plan.
- (b) Such use shall comply with the height, and area regulations of the AG district; except that the City Council may reduce the minimum lot area ~~to ten acres~~.
- (c) The combined area of indoor and outdoor storage on the site shall not exceed two acres and such area shall be fenced.
- (d) The building and outdoor storage area shall be screened in accordance with city design standards.
- (e) Such use shall be permitted for a period which shall be determined by the City Council with reference to the anticipated urbanization of the surrounding area in accordance with the Comprehensive Plan and the Capitol Improvements Plan ~~provided such period shall not exceed ten~~

~~years. The permittee may request an administrative amendment for an extension of the use in one year increments.~~

7. The minimum lot size in the AG district is 20 acres.
8. The special permit limits the indoor and outdoor storage area to two acres. A temporary construction yard would probably not occupy the full 20 acres. Thus if the minimum lot size were 10 acres, 8 acres would be basically unused. The one current example is proposing an 8 acre lot.
9. There should be a time limit for the temporary use. The proposed amendment would eliminate the current ten year time limit. Without a time limit, each application could have a time limit imposed on a case by case basis depending upon the circumstances.
10. The applicant also proposes to eliminate the administrative amendment provision to extend the time period. The administrative amendment process allows only one year extensions.

### **CONCLUSION:**

The intent of the special permit provision is for the temporary storage of construction materials and equipment until the surrounding area develops. Once an area fully develops the temporary construction storage yard would be removed and converted to a residential use. In regards to the proposed three amendments:

1. **Lot Size Change:** The amendment to the lot size is appropriate. This will allow a smaller lot to be used for the use. Currently the special permit limits the storage area to two acres, which could leave 8 acres or more unused.
2. **Time Period Elimination:** The elimination of maximum 10 year period is appropriate with the understanding that the City Council will establish an appropriate limitation on the temporary use. No special permit should be granted without a specific date to discontinue the use.
3. **Administrative Amendment Elimination:** The proposal to eliminate the administrative amendment should not be approved. However, extending the time period for administrative amendments from one to five years will prevent the need for repeated amendments when it is clear that the use should be extended.

### **RECOMMENDATION:** Approval of the revised text:

Section 27.63.590 "Permitted Special Use: Temporary Storage of Construction Equipment and Materials":

Temporary storage of construction equipment and materials may be allowed by special permit in the AG zoning district under the following conditions:

(a) The site shall be located in or within one mile of the future urban area as designated in the Comprehensive Plan.

(b) Such use shall comply with the height, and area regulations of the AG district; except that the City Council may reduce the minimum lot area ~~to ten acres~~.

(c) The combined area of indoor and outdoor storage on the site shall not exceed two acres and such area shall be fenced.

(d) The building and outdoor storage area shall be screened in accordance with city design standards.

(e) Such use shall be permitted for a limited period of time which shall be determined by the City Council with reference to the anticipated urbanization of the surrounding area in accordance with the Comprehensive Plan and the Capitol Improvements Plan ~~provided such period shall not exceed ten years.~~ The permittee may request an administrative amendment for an extension of the use up to ~~in~~ one ~~five~~ years ~~increments~~.

Prepared by:

Stephen Henrichsen, AICP  
Planning Department

## CHANGE OF ZONE NO. 3288

### PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 1, 2000

Members present: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer; Duvall and Hunter absent.

Planning staff recommendation: Approval.

### Proponents

**1. Brian Carstens** explained that this text amendment is to allow temporary storage of construction equipment and materials in an area less than 10 acres. This text amendment proposal has come about because of the application for Special Permit No. 1313A at South 84<sup>th</sup> and Old Cheney Road, also on today's agenda. Due to some annexation and subdivision on a corner of this property, this text amendment is an attempt to keep that property whole and keep the use going "as is". This change to the text would allow the property to be developed at a future date with no adverse affect.

There was no testimony in opposition.

Schwinn commented that the subject construction site has always been at that location and he assumes that we have gotten to the point where because of piecemeal development, the construction storage site has become too small, thus the need for the text amendment. Schwinn wondered whether there might be some kind of grandfather clause that would be appropriate. Rick Peo of the City Attorney's office believes it would be a voluntary decision on the permittee's part to reduce the size of the property under the minimum requirements. "Either you do or you don't". Either you maintain the site as is or you give it up. The idea was to look at the possibility of allowing the concept. These were always intended to be temporary uses that would be eliminated as development came out to them. The thought is that they should not have to be eliminated totally at once, but gradually.

Relative to eliminating the one-year increment for reapplication for extensions, Steward was surprised that we would make it a longer period of time rather than annual checks. Peo advised that the staff's proposed language allowed for a 5-year administrative amendment. The City Council would initiate the initial duration and then it could be extended 1-5 years by administrative amendment. Ray Hill of Planning staff further explained that the amendment provides that the City Council can set the time limit and then, depending upon what is happening at that time, the permittee could ask for an administrative amendment to extend the use up to 5 years.

Carlson noted that there has been only one of these special permits.

Public hearing was closed.

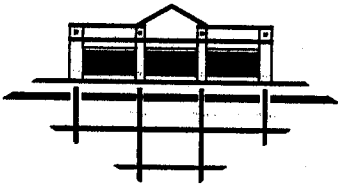
**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

November 1, 2000

Steward moved to approve the staff language, seconded by Schwinn.

Carlson applauded the efforts of the Planning staff to get this information out into the community.

Motion for approval of the language proposed by staff carried 7-0: Krieser, Carlson, Schwinn, Taylor, Steward, Newman and Bayer voting 'yes'; Duvall and Hunter absent.



**BRIAN D. CARSTENS AND ASSOCIATES**  
LAND PLANNING RESIDENTIAL & COMMERCIAL DESIGN  
2935 Pine Lake Road, Suite H Lincoln, NE 68516 Phone: 402.434.2424

October 5, 2000

Ms. Kathleen A. Sellman, ACIP  
Director of Planning  
City of Lincoln/ Lancaster County  
555 South 10th Street  
Lincoln, NE 68508

RE: CHANGE OF ZONE - TEXT AMENDMENT TO SECTION 27.63.590 PERMITTED  
SPECIAL USE: TEMPORARY STORAGE OF CONSTRUCTION EQUIPMENT AND MATERIALS

Dear Kathleen,

On behalf of Joe Hampton, I am submit the following Change of Zone/ Text Amendment for your review. We wish to amend Section 27.63.590 of the Lincoln Municipal Code as follows:

Temporary storage of construction equipment and materials may be allowed by special permit in the AG zoning district under the following conditions:

- (a) The site shall be located in or within one mile of the future urban area as designated in the Comprehensive Plan.
- (b) Such uses shall comply with the height, and area regulations of the AG district; except that the City Council may reduce the minimum lot area, ~~to less than ten acres.~~
- (c) The combined area of indoor and outdoor storage on the site shall not exceed two acres and shall be fenced.
- (d) The building and outdoor storage area shall be screened in accordance with the city design standards.
- (e) Such use shall be permitted for a period which shall be determined by the City Council with a reference to the anticipated urbanization of the surrounding area in accordance with the Comprehensive Plan and the Capitol Improvements Plan, ~~provided such period shall not exceed 10 years. The permittee may request an administrative amendment for an extension of the use in one year increments.~~

The reason for this request is two fold. First, with the associated Change of Zone from AG to R-3 for the proposed Heartland Homes East 1st Addition Preliminary Plat will reduce the land area below the required 10 acres. Second, Joe Hampton requests that this special permit be allowed to run longer than 10 years, without the worry and paperwork headache of applying for and receiving administrative amendments on an annual basis.

Please contact me if you have any further questions or comments.

Sincerely,

Brian D. Carstens

cc: Joe Hampton  
Lyle Loth